



#14 \$DAE

PTO/SB/61 (11-03)
Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNAVOIDABLY UNDER 37 CFR 1.137(a)**

Docket Number (Optional)
065489-001

First Named Inventor: **Evan E. Dussia**

Art Unit: **3626**

RECEIVED

Application Number: **09/616,276**

Examiner: **Vanel Frenel**

JUL 23 2004

Filed: **July 14, 2000**

OFFICE OF PETITIONS

Title: **Computerized Method And System For Obtaining, Storing And Accessing Medical
Records**

Attention: Office of Petitions

Mail Stop Petition

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

NOTE: If information or assistance is needed in completing this form, please contact
Petitions Information at (703) 305-9382.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION.

NOTE: A grantable petition requires the following items:

- (1) Petition fee.
- (2) Reply and/or issue fee.
- (3) Terminal disclaimer with disclaimer fee-required for all utility and plant applications filed before June 8, 1995, and for all design applications; and
- (4) Adequate showing of the cause of unavoidable delay.

1. Petition fee

☒ Small entity - fee \$ **55.00** (37 CFR 1.17(l)). Applicant claims small entity status.
See 37 CFR 1.27.

☐ Other than small entity - fee \$ _____ (37 CFR 1.17(l)).

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of
Notice Of Appeal (identify the type of reply):

☐ has been filed previously on _____.

☒ is enclosed herewith.

B. The issue fee of \$ _____

☐ has been filed previously on _____.

☐ is enclosed herewith.

07/20/2004 SZEWDIE1 00000052 09616276

01 FC:2452

55.00 OP

[Page 1 of 3]

This collection of information is required by 37 CFR 1.137(a). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 8 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNAVOIDABLY UNDER 37 CFR 1.137(a)**

3. Terminal disclaimer with disclaimer fee

- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. An adequate showing of the cause of the delay, and that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(a) was unavoidable, is enclosed.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

July 16, 2004

Date



Signature

407-926-7724

Telephone Number

W. David Sartor

Typed or printed name

50,560

Registration Number, if applicable

Beusse Brownlee Wolter Mora & Maire, P.A.

Address

390 N. Orange Avenue, Suite 2500
Orlando, FL 32801

Address

- Enclosure ☒ Fee Payment
- ☒ Reply
- ☐ Terminal Disclaimer Form
- ☒ Additional sheets containing statements establishing unavoidable delay
- ☐ _____

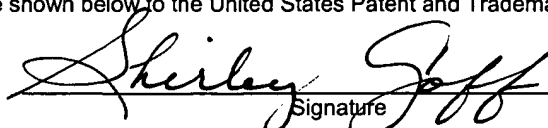
CERTIFICATE OF MAILING OR TRANSMISSION (37 CFR 1.8(a))

I hereby certify that this correspondence is being:

- ☐ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to **Mail Stop Petition**, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.
- ☐ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 872-9306.

July 16, 2004

Date



Signature

Shirley Goff

Typed or printed name of person signing certificate

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNAVOIDABLY UNDER 37 CFR 1.137(a)**

NOTE: The following showing of the cause of unavoidable delay must be signed by all applicants or by any other party who is presenting statements concerning the cause of delay.

July 16, 2004

Date

50,560

Registration Number, if applicable



Signature

W. David Sartor

Typed or printed name

(In the space provided below, please explain in detail the reasons for the delay in filing a proper reply.)

On August 6, 2003, Applicant's attorney faxed a Response to a Final Office Action (dated as mailed on June 6, 2003) to the United States Patent and Trademark Office (USPTO) at the fax number indicated on the Final Office Action. The Response included a Certificate of Transmission signed by legal assistant to the Applicant's attorney, Shirley Goff. A Memory Transmission Report indicating a successful transmission of the Response was generated by the sender's facsimile machine and is attached hereto as Exhibit A. It appears that the USPTO misplaced this timely faxed Response.

Nothing further was heard or received from the USPTO until the Examiner called Applicant's attorney on or about December 8, 2003 inquiring if a Response had been filed. Upon further discussion, the Examiner concluded that the timely faxed Response had been lost.

A Notice of Abandonment was issued on February 24, 2004 for failure to prosecute the application. On March 3, 2004, Applicant's attorney filed a Petition To Obtain Withdrawal of a Holding of Abandonment (the "Petition"), attached hereto as Exhibit B. The Petition was denied in a Decision on Withholding of Abandonment (the "Decision," attached hereto as Exhibit C) for lacking a statement under 37 CFR 1.8(b)(3) attesting to personal knowledge of the facsimile transmission. Consequently, the Decision recommended the Applicant submit a Petition to Revive, assuming that a statement under 37 CFR 1.8(b)(3) could be provided. Accordingly, a statement under 37 CFR 1.8(b)(3) attesting to personal knowledge of the facsimile transmission by the person signing the certificate and a copy of the Response is attached to this Petition.

Applicant respectfully submits that there was no delay in filing the Response and that the abandonment was unavoidable and a result of the misplacement of the Applicant's timely filed Response. Revival of the application is therefore requested pursuant to 37 CFR 1.137(a).

(Please attach additional sheets if additional space is needed.)



PTO/SB/21 (08-03)

Approved for use through 08/30/2003. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**TRANSMITTAL
FORM**

(to be used for all correspondence after initial filing)

Application Number **09/616,276**Filing Date **7/14/2000**First Named Inventor **Evan E. Dussia**Art Unit **3626**Examiner Name **Vanel Frenel**Attorney Docket Number **065489-001**

Total Number of Pages in This Submission

RECEIVED**JUL 23 2004****OFFICE OF PETITIONS****ENCLOSURES (Check all that apply)**

- | | | |
|--|---|--|
| <input checked="" type="checkbox"/> Fee Transmittal Form | <input type="checkbox"/> Drawing(s) | <input type="checkbox"/> After Allowance communication to Technology Center (TC) |
| <input checked="" type="checkbox"/> Fee Attached | <input type="checkbox"/> Licensing-related Papers | <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences |
| <input type="checkbox"/> Amendment/Reply | <input checked="" type="checkbox"/> Petition | <input checked="" type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) |
| <input type="checkbox"/> After Final | <input type="checkbox"/> Petition to Convert to a Provisional Application | <input type="checkbox"/> Proprietary Information |
| <input type="checkbox"/> Affidavits/declaration(s) | <input type="checkbox"/> Power of Attorney, Revocation | <input type="checkbox"/> Status Letter |
| <input type="checkbox"/> Extension of Time Request | <input type="checkbox"/> Change of Correspondence Address | <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): |
| <input type="checkbox"/> Express Abandonment Request | <input type="checkbox"/> Terminal Disclaimer | 1. Postcard |
| <input type="checkbox"/> Information Disclosure Statement | <input type="checkbox"/> Request for Refund | 2. Exhibits Accompanying Petition |
| <input type="checkbox"/> Certified Copy of Priority Document(s) | <input type="checkbox"/> CD, Number of CD(s) _____ | |
| <input type="checkbox"/> Response to Missing Parts/Incomplete Application | Remarks | |
| <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53 | | |

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	Beusse Brownlee Wolter Mora & Maire, P.A.
Signature	W. David Sartor
Date	July 16, 2004

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

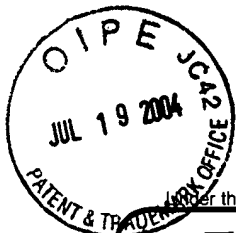
Typed or printed name **Shirley Goff**

Signature

Date **07/16/2004**

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.44. This collection is estimated to 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



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FEE TRANSMITTAL for FY 2004

Effective 10/01/2003. Patent fees are subject to annual revision.

☒ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$)**220.00**

Complete if Known

Application Number	09/616,276
Filing Date	07/14/2000 RECEIVED
First Named Inventor	Evan E. Dussia
Examiner Name	Vanel Frenel JUL 23 2004
Art Unit	3626 OFFICE OF PETITION
Attorney Docket No.	065489-001

METHOD OF PAYMENT (check all that apply)

☒ Check ☐ Credit card ☐ Money Order ☐ Other ☐ None

☐ Deposit Account:

Deposit Account Number
Deposit Account Name

The Director is authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☐ Credit any overpayments

☐ Charge any additional fee(s) or any underpayment of fee(s)

☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.

FEE CALCULATION

1. BASIC FILING FEE

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description	Fee Paid
1001 770	2001 385	Utility filing fee	
1002 340	2002 170	Design filing fee	
1003 530	2003 265	Plant filing fee	
1004 770	2004 385	Reissue filing fee	
1005 160	2005 80	Provisional filing fee	

SUBTOTAL (1) (\$)**-0-**

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

	Extra Claims	Fee from below	Fee Paid
Total Claims	-20** =	X	
Independent Claims	-3** =	X	
Multiple Dependent			

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description
1202 18	2202 9	Claims in excess of 20
1201 86	2201 43	Independent claims in excess of 3
1203 290	2203 145	Multiple dependent claim, if not paid
1204 86	2204 43	** Reissue independent claims over original patent
1205 18	2205 9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) (\$)**-0-**

**or number previously paid, if greater; For Reissues, see above

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description	Fee Paid
1051 130	2051 65	Surcharge - late filing fee or oath	
1052 50	2052 25	Surcharge - late provisional filing fee or cover sheet	
1053 130	1053 130	Non-English specification	
1812 2,520	1812 2,520	For filing a request for ex parte reexamination	
1804 920*	1804 920*	Requesting publication of SIR prior to Examiner action	
1805 1,840*	1805 1,840*	Requesting publication of SIR after Examiner action	
1251 110	2251 55	Extension for reply within first month	
1252 420	2252 210	Extension for reply within second month	
1253 950	2253 475	Extension for reply within third month	
1254 1,480	2254 740	Extension for reply within fourth month	
1255 2,010	2255 1,005	Extension for reply within fifth month	
1401 330	2401 165	Notice of Appeal	165.00
1402 330	2402 165	Filing a brief in support of an appeal	
1403 290	2403 145	Request for oral hearing	
1451 1,510	1451 1,510	Petition to institute a public use proceeding	
1452 110	2452 55	Petition to revive - unavoidable	55.00
1453 1,330	2453 665	Petition to revive - unintentional	
1501 1,330	2501 665	Utility issue fee (or reissue)	
1502 480	2502 240	Design issue fee	
1503 640	2503 320	Plant issue fee	
1460 130	1460 130	Petitions to the Commissioner	
1807 50	1807 50	Processing fee under 37 CFR 1.17(q)	
1806 180	1806 180	Submission of Information Disclosure Stmt	
8021 40	8021 40	Recording each patent assignment per property (times number of properties)	
1809 770	2809 385	Filing a submission after final rejection (37 CFR 1.129(a))	
1810 770	2810 385	For each additional invention to be examined (37 CFR 1.129(b))	
1801 770	2801 385	Request for Continued Examination (RCE)	
1802 900	1802 900	Request for expedited examination of a design application	

Other fee (specify)

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$)**220.00**

SUBMITTED BY

(Complete (if applicable))

Name (Print/Type)	W. David Sartor	Registration No. (Attorney/Agent)	50,560	Telephone	407-926-7701
Signature		Date	07/16/2004		

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

This collection of information is required by 37 CFR 1.17 and 1.27. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS.
SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

EXHIBIT A

MEMORY TRANSMISSION REPORT

TIME : 08-06-03 16:20
TEL NUMBER: +4079267720
NAME : BEUSSE BROWNLEE ET AL

FILE NUMBER : 802
DATE : 08-06 16:14
TO : 917033057687
DOCUMENT PAGES : 15
START TIME : 08-06 16:14
END TIME : 08-06 16:20
SENT PAGES : 15

FILE NUMBER : 802

*** SUCCESSFUL TX NOTICE ***

BEUSSE BROWNLEE BOWDOIN & WOLTER, P.A.

FACSIMILE TRANSMITTAL SHEET	
TO:	FROM:
Vanel Frenel Art Unit 3626	James H. Beusse
COMPANY:	DATE:
U.S. Patent Office	August 6, 2003
FAX NUMBER:	TOTAL NO. OF PAGES INCLUDING COVER:
703-305-7687	15
PHONE NUMBER:	SENDER'S REFERENCE NUMBER:
	065489-001
RE:	YOUR REFERENCE NUMBER:
Response Under 37 CFR 1.116 for 09/616,276	
<input checked="" type="checkbox"/> URGENT <input type="checkbox"/> FOR REVIEW <input type="checkbox"/> PLEASE COMMENT <input type="checkbox"/> PLEASE REPLY <input type="checkbox"/> PLEASE RECYCLE	
NOTES/COMMENTS	

Response to Final Office Action, dated as mailed June 6, 2003.

300 NORTH ORANGE AVENUE, SUITE 2500, ORLANDO, FLORIDA 32801
TELEPHONE: (407) 826-7700

EXHIBIT B

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Applicant: Evan E. Dussia

Examiner: V.Frenel

Serial No.: 09/616,276

Art Unit: 3626

Filed: July 14, 2000

**For: Computerized Method And System
For Obtaining Storing And Accessing
Medical Records**

Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**PETITION TO OBTAIN WITHDRAWAL OF HOLDING OF ABANDONMENT
BASED ON FAILURE TO RECEIVE OFFICE ACTION UNDER 37 CFR
1.181(A)(3) AND SECTION 711.03(c) (II) OF THE MPEP**

Sir:

On June 26, 2003, applicant's attorney received a final office action (the "Final Office Action") dated as mailed June 6, 2003. On August 6, 2003, within two months of mailing the Final Office Action, applicant's attorney faxed a Response (the "Response") to the Examiner, Mr. Frenel Vanel. A transmission verification for this fax is attached hereto as Exhibit A. Under the PTO procedures, an advisory action should have been set to Applicant's attorney if the response did not place the application in form for allowance. Since such an Advisory Action was not received, applicant's attorney assumed that the application was allowed. On or about December 8, 2003, the Examiner called applicant's attorney to ask if a Response had been filed. Applicant's attorney informed the Examiner that the Response had been faxed to the Examiner on August 6, 2003. Upon further discussion, the Examiner concluded that the faxed Response had been lost by the PTO and agreed to accept a re-fax the

Response. Applicant's attorney re-faxed the Response on December 8, 2003 (see Exhibit B for this transmission receipt).

According to applicant's attorney's telephone conversation with the Examiner, applicant's attorney understood that the Response would be treated by the Examiner as timely filed for provoking an advisory action because the Response had previously been faxed within two months from mailing of the Final Office Action. Because it appeared that the PTO had lost the Response timely faxed on August 6, 2003, and the Examiner did not indicate that a re-faxed response would not be treated as being timely filed, the applicant's attorney believed that the re-faxed Response would "reset" the clock to the date of re-faxing the response - December 8, 2003. Therefore, the applicant's attorney believed that he would have at least four months (six months, minus two months from the reset filing date of December 8, 2003), or April 8, 2004, to respond to an advisory action provoked by the Response. Additionally, the applicant's attorney believed that if an advisory action was not mailed by January 8, 2004, then applicant's attorney would have three months from the date of mailing of the advisory action to file a response to the advisory action without having to pay an extension fee.

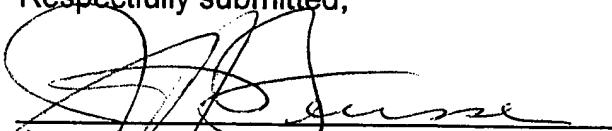
The applicant's attorney had not received an advisory action by February 25, 2004, when the Examiner contacted the applicant's attorney by telephone. The Examiner informed the applicant's attorney, that a Notice of Abandonment had been mailed on February 23, 2004 for failure to prosecute the above referenced application. The Examiner's reason for sending the Notice of Abandonment was that the applicant's attorney had failed to respond to an Advisory Action (the "Advisory Action"), mailed December 24, 2003, within six months of mailing the Final Office Action on June 6, 2003, as required by 35 USC 133. However, the applicant's attorney did not receive and has no record of receiving this Advisory Action.

Therefore, the applicant's attorney hereby submits, according to the showing requirements of MPEP Section 711.03(c) II., that the Office Action, specifically, the Advisory Action, was not received by the applicant's attorney. In addition, a search of the file jacket and docket records indicates that the Advisory Action was not received. A copy of the docket record where the non-received Advisory Action would have been entered, had it been received and docketed, is attached hereto as Exhibit C.

It appears to applicant's attorney that the Advisory Action may have been mailed to a prior correspondence address that should have been updated according to a Request for Change of Correspondence Address (the "Request") submitted on October 25, 2002, and attached hereto as Exhibit D. The Patent and Trademark Office acknowledged receipt of the Request by date stamping and returning a postcard provided with the Request. A copy of the postcard is attached hereto as Exhibit E.

For the foregoing reasons, the applicant's attorney respectfully requests that the Notice of Abandonment be withdrawn and that a copy of the Advisory Action be mailed to the applicant's attorney at the proper correspondence address. In addition, the applicant's attorney respectfully requests that the re-faxed Response be treated as timely filed two months from mailing of the Final Office Action, and that the period for reply be reset to permit a timely response to the Advisory Action.

Respectfully submitted,

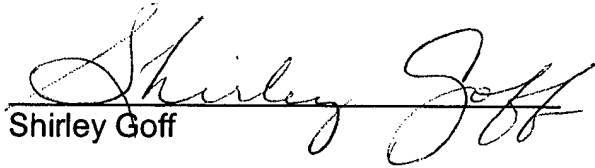


James H. Beusse
Reg. No. 27,115
Beusse Brownlee Wolter Mora & Maire, P.A.
390 N. Orange Avenue, Suite 2500
Orlando, FL 32801
(407) 926-7701

CERTIFICATE OF MAILING

I HEREBY CERTIFY that this Petition is being mailed to: Commissioner for Patents, Mail Stop Petition, P.O Box 1450, Alexandria, VA 22313-1450 on this 3rd day of March, 2004.

Shirley Goff

A handwritten signature in cursive script, reading "Shirley Goff", written over a horizontal line.

TIME : 08-06-03 16:20
TEL NUMBER1: +4079267720
NAME : BEUSSE BROWNLEE ET AL

FILE NUMBER : 802
DATE : 08-06 16:14
TO : 917033057687
DOCUMENT PAGES : 15
START TIME : 08-06 16:14
END TIME : 08-06 16:20
SENT PAGES : 15

FILE NUMBER : 802

*** SUCCESSFUL TX NOTICE ***

BEUSSE BROWNLEE BOWDOIN & WOLTER, P.A.

FACSIMILE TRANSMITTAL SHEET	
TO:	FROM:
Vanel Frenel Art Unit 3626	James H Beusse
COMPANY:	DATE:
U.S. Patent Office	August 6, 2003
FAX NUMBER:	TOTAL NO. OF PAGES INCLUDING COVER:
703-305-7687	15
PHONE NUMBER:	SENDER'S REFERENCE NUMBER:
	065489-001
RE:	YOUR REFERENCE NUMBER:
Response Under 37 CFR 1.116 for 09/616,276	
<input checked="" type="checkbox"/> URGENT <input type="checkbox"/> FOR REVIEW <input type="checkbox"/> PLEASE COMMENT <input type="checkbox"/> PLEASE REPLY <input type="checkbox"/> PLEASE RECYCLE	
NOTES/COMMENTS	

Response to Final Office Action, dated as mailed June 6, 2003.

TIME : 12-08-03 14:22
TEL NUMBER: +4079267720
NAME : BEUSSE BROWNLEE ET AL

FILE NUMBER : 645
DATE : 12-08 14:17
TO : 917033057687
DOCUMENT PAGES : 16
START TIME : 12-08 14:17
END TIME : 12-08 14:22
SENT PAGES : 16

FILE NUMBER : 645 *** SUCCESSFUL TX NOTICE ***

BEUSSE, BROWNLEE, WOLTER, MORA & MAIRE, P.A.

FACSIMILE TRANSMITTAL SHEET	
TO Vanel Frenel Att Unit 3626	FROM Dave Sartor for James H. Buesse
COMPANY U.S.P.T.O.	DATE December 8, 2003
FAX NUMBER (703) 305-7687	TOTAL NO. OF PAGES INCLUDING COVER 16
PHONE NUMBER	SENDER'S REFERENCE NUMBER 065489-001
RE RE-FAX of Response Under 37 CFR 1.116 for 09/616,276	YOUR REFERENCE NUMBER
<input checked="" type="checkbox"/> URGENT <input type="checkbox"/> FOR REVIEW <input type="checkbox"/> PLEASE COMMENT <input type="checkbox"/> PLEASE REPLY <input type="checkbox"/> PLEASE RECYCLE	
NOTES/COMMENTS:	

Per telecon with Mr. Frenel on December 8, 2003, attached please find:

- 1) Memory Transmission Report for a Response to Final Office Action previously faxed on August 6, 2003.
- 2) Copy of the Response to Final Office Action previously faxed on August 6, 2003.

EXHIBIT C



UNITED STATES PATENT AND TRADEMARK OFFICE

RECEIVED

JUN 28 2004

BEUSSE BROWNLEE WOLTER

COMMISSIONER FOR PATENTS

UNITED STATES PATENT AND TRADEMARK OFFICE

P.O. Box 1450

ALEXANDRIA, VA 22313-1450

www.uspto.gov

MAILED

JUN 23 2004

James H Beusse Esquire
Holland & Knight LLP
P.O. Box 1526
Orlando, FL 32802-1526

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

In re Application of :
Evan E. Dussia :
Application No. 09/616,276 :
Filed: July 14, 2000 :
For: COMPUTERIZED METHOD AND SYSTEM :
FOR OBTAINING, STORING AND ACCESSING :
MEDICAL RECORDS :
DECISION ON PETITION
TO WITHDRAW THE
HOLDING OF ABANDONMENT

This is in reply to applicant's petition to withdraw the holding of abandonment under 37 CFR 1.181, filed in the United States Patent and Trademark Office, on March 8, 2004.

The petition is **DISMISSED**.

The application was held abandoned for failure to timely respond to a final Office action mailed June 6, 2003 and a Notice to that effect was mailed February 24, 2004.

Applicant states that a response to the final Office action was originally transmitted by facsimile on August 6, 2003 and that a copy of that response was retransmitted on December 8, 2003 after the examiner inquired as to whether a response had been filed. It appears from the record that the response filed on December 8, 2003 was improperly accorded the earlier filing date and the examiner issued an Advisory action on December 24, 2003 in reply thereto. The examiner had no authority to accept the copy of the amendment since it was a late paper. Such a submission needed to be treated as a petition to withdraw the holding of abandonment. Since the period to reply to the final Office action had already expired, on December 8, 2003 the application was abandoned. Consequently, the Advisory action of December 24, 2003 is hereby vacated.

Any petition to withdraw the holding of abandonment based upon a Certificate of Transmission by facsimile must provide the following:

- (1) A copy of the original response bearing a signed Certificate of Transmission which includes the date of signing; and
- (2) A statement under 37 CFR 1.8(b)(3) attesting to the personal knowledge of transmitting the original response on the date indicated on the Certificate of Transmission (see 37 CFR 1.8 and MPEP 512).

While meeting requirement (1) above, the petitions (the submissions of December 8, 2003 and March 8, 2004) fail under requirement (2) to provide a proper statement under 37 CFR 1.8(b)(3) attesting to personal knowledge of sending the original response by facsimile transmission on the date indicated on the certificate, by the person who signed the certificate.

It is unclear why the applicant felt that the response period to the final rejection would be "reset" by the filing of the copy of the lost paper on December 8, 2003, as no such "resetting" was proper then, and none will occur now. So, assuming that the applicant can meet the requirements of 37 CFR 1.8(b)(3), unless the examiner decides to backtrack on the stance taken in the vacated Advisory action and allow the case, the application will remain abandoned. A petition to revive would be the recommended course of action in such a case.

With regards to non-receipt of the Advisory action, it is noted that the address of record does not correspond with the address appearing in the petition. It is further noted that the petition includes a copy of a request filed October 30, 2002 to change the correspondence address. This request was never received. Even if the request was received, it would not have been accepted because applicant failed to check the appropriate box indicating what the new address is. For the purposes of answering this petition, a copy of this response is being mailed to the address in the petition. However, the correspondence address of record remains unchanged and applicant must submit a proper change of address to receive future communications at this address.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(b) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition to Withdraw the Holding of Abandonment Under 37 CFR 1.81."



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SNM/mjz: 5/20/04

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor's Application of: Evan E. Dussia

Serial No. 09/616,276

Group Art Unit: 3626

Filed: July 14, 2000

Examiner: Vanel Frenel

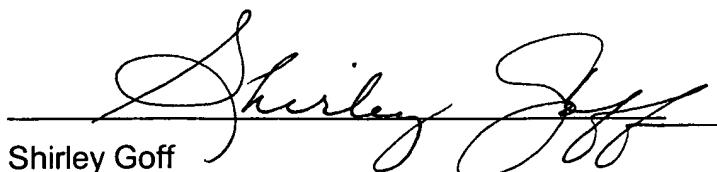
For: Computerized Method And System For
Obtaining, Storing And Accessing Medical
Records

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

STATEMENT OF SHIRLEY GOFF

1. My name is Shirley Goff, and I am a resident of Orange County, Florida, and I am at least 18 years of age.
2. I am employed as a Legal Assistant for the law firm of Beusse Brownlee Wolter Mora and Maire, P.A., attorneys for the Applicant.
3. I hereby attest to having personal knowledge of faxing the original Response to the Final Office Action to the U.S. Patent Office, FAX number 703-305-7687, on August 6, 2003.
4. Attached to this statement is a copy of the Response to the Final Office Action timely faxed to the U.S. Patent Office.

Signed at Orlando, Florida this 16th day of July, 2004.


Shirley Goff

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Applicant: Evan E. Dussia

Examiner: V. Frenel

Serial No.: 09/616,276

Art Unit: 3626

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For: Computerized Method and System
for Obtaining Storing and Accessing
Medical Records

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RESPONSE UNDER 37 CFR 1.116

This paper is in response to the Final Office Action, Paper No. 11, dated as mailed June 6, 2003, having a response due date of September 6, 2003, and is being submitted within two months from the date of mailing of the Final Office Action. Accordingly, the applicant respectfully requests an Advisory Office Action. In the response, claims are amended and arguments are provided for allowance of the amended application. The applicant respectfully requests entry of the amended claims and the arguments. Please proceed to the following page.

AMENDMENTS TO THE CLAIMS

1. (Previously amended) A medical health record storage and retrieval system comprising:
 - an extraction module operable to extract a patient's diagnosis and treatment information from respective progress notes of a physician;
 - a storage module configured to store the extracted diagnosis and treatment information in a logically connected database; and
 - a server configured to allow web-enabled data sharing access to the stored database by authorized users using a remote or local web-enabled device.
2. (Previously amended) A computerized method for managing respective health records of a plurality of patients, said method comprising:
 - uploading a progress note of a respective patient, said progress note comprising data relative to an encounter between a respective physician and the respective patient;
 - identifying on said progress note respective parameters selectable by the respective physician;
 - storing said progress note with said identified parameters in a database accessible to a plurality of authorized users; and
 - populating said database with respective progress notes and respective identified parameters resulting from further encounters between the respective patient and any respective physician so as to create a historical set of progress notes with identified parameters for that respective patient, the set of historical progress notes being interconnectable based on one or more logic operators.
- 3) (Original) The computerized method of claim 2, wherein the identified parameters are selected to convey a snapshot of said encounter.
- 4) (Currently Amended) The computerized method of claim 2, wherein the identified parameters are selected from the group of consisting of diagnosis and prescription parameters.
- 5) (Cancelled)

6. (Previously amended) The computerized method of claim 2, wherein one of the logical operators comprises a chronology-indicative operator.

7. (Previously amended) The computerized method of claim 2, wherein one of the logical operators comprises a pathology-indicative operator.

8. (Previously amended) The computerized method of claim 2, wherein one of the logical operators comprises a pharmacology-indicative operator.

9. (Currently amended) The computerized method of claim 2 further comprising:
assigning at least one entity ownership interest to respective progress notes stored in the database;

tracking users accessing ~~information~~ the progress notes in the database to process respective billing of the users for each access of the progress notes database, and

allocating access fees among entities having an ownership interest assigned to
~~associated with the respective progress notes~~ information accessed by respective the users.

10. (Original) The computerized method of claim 2, wherein the database is accessible to a plurality of users through a communications network.

11. (Original) The computerized method of claim 10, wherein the communications network comprises the Internet.

12. (Previously amended) A computer readable medium encoded with computer code for managing respective health records of a plurality of patients, the program code causing a computer to execute a method comprising:

uploading a progress note of a respective patient, said progress note comprising data relative to an encounter between a respective physician and the respective patient;

identifying on said progress note respective parameters selectable by the respective physician;

storing said progress note with said identified parameters in a database accessible to a plurality of authorized users; and

populating said database with respective progress notes and respective identified parameters resulting from further encounters between the respective patient and any respective

physician so as to create a historical set of progress notes with identified parameters for that respective patient, the set of historical progress notes being interconnectable based on one or more logic operators.

13. (Original) The computer readable medium of claim 12, wherein the identified parameters are selected to convey a snapshot of said encounter.

14. (Currently Amended) The computer readable medium of claim 12, wherein the identified parameters are selected from the group of consisting of diagnosis and prescription parameters.

15. (Original) The computer readable medium of claim 12, wherein one of the logical operators comprises a chronology-indicative operator.

16. (Original) The computer readable medium of claim 12, wherein one of the logical operators comprises a pathology-indicative operator.

17. (Original) The computer readable medium of claim 12, wherein one of the logical operators comprises a pharmacology-indicative operator.

18. (Currently amended) The computer readable medium of claim 12, further comprising:
assigning at least one entity ownership interest to respective progress notes stored in the database;

tracking users accessing ~~information~~ the progress notes in the database to process respective billing of the users for each access of the progress notes database, and

allocating access fees among entities having an ownership interest assigned to
~~associated with the respective~~ progress notes information accessed by respective the users.

19. (Original) The computer readable medium of claim 12, wherein the database is accessible to a plurality of users through a communications network.

20. (Original) The computer readable medium of claim 19, wherein the communications network comprises the Internet.

21. (Currently amended) A medical health record storage and retrieval system comprising:

means for extracting a patient's diagnosis and treatment information from respective progress notes of a physician;

means for storing the extracted diagnosis and treatment information in a logically connected database;

means for allowing web-enabled data sharing access to the stored database by authorized users using a remote or local web-enabled device; and

means for assigning at least one entity ownership interest to respective progress notes stored in the database, for tracking users accessing the progress notes in the database, and for allocating access fees among entities having an ownership interest assigned to associated with the respective progress notes information accessed by respective the users.

22. (Currently amended) The system of claim 1, further comprising a processor module configured to assign at least one entity ownership interest to medical diagnosis and treatment information stored in the database, to track users accessing the information stored in the database, to bill the ~~accessing~~ users for each access of the database, and to allocate access fees among entities having an ownership interest assigned to associated with the respective medical diagnosis and treatment information accessed by respective the users.

23. (Currently amended) The system of claim 22, wherein the processor module is further configured to control access of the database according to ownership interests assigned to authorship of information in the database.

24. (Currently amended) The method of claim 2, further comprising controlling access of the database according to ownership interests assigned to information in the database.

REMARKS

At the time of the Final Office Action, claims 1-4 and 6-24 were pending. Claims 1 and 22 - 23 were rejected under 35 USC 103(a) as being unpatentable over Lavin et al in view of Iliff. Claims 2-4, 6-8, 10-17, and 19-20 were rejected under 35 USC 103(a) as being unpatentable over Lavin in view of Evans. Claims 9 and 18 were rejected under 35 USC 103(a) as being unpatentable over Lavin in view of Evans and further in view of Walker et al. Claim 21 was rejected under 35 USC 103(a) as being unpatentable over Lavin, Iliff, and Walker.

In the Office Action, claims 1 and 22 - 23 were rejected under 35 USC 103(a) as being unpatentable over Lavin et al. (U.S. Pat. No. 5,772,585) in view of Iliff (U.S. Pat. No. 6,206,829). With regard to claim 1, the Office Action states that Lavin does not explicitly disclose "a server configured to allow web-enabled data sharing to the stored database by authorized users using a remote or local web-enabled device." The Office Action proposes that Iliff suggests this feature by teaching a medical self-diagnosis system that utilizes a network access processor to access the network. The processor then executes, based on a patient's input, predefined diagnostic scripts using a script engine. However, the cited feature of running diagnostic scripts utilizing a network appears to be completely different from providing "web-enabled data sharing to the stored database" as recited in claim 1. Accordingly, the applicant submits that Iliff teaches away from the suggested combination by teaching the feature of executing scripts via a network instead of teaching the claimed feature of allowing "web-enabled data sharing to the stored database by authorized users using a remote or local web-enabled device." Furthermore, neither Lavin nor Iliff appear to contain any suggestion that their respective features can be combined as suggested in the Office action. Lavin does not appear to suggest running diagnostic scripts for patients over a network, nor does Iliff suggest using diagnostic scripts in a system for management of patient medical records. Even assuming, for arguments' sake, that the references were combinable, the references would not meet claim 1. It would be necessary to make modifications, not taught in the prior art, in order to combine the references in the manner suggested to provide "web-enabled data sharing to the stored database" as recited in claim 1. Thus, for the above-cited reasons, applicant respectfully submits that claim 1 is in condition for allowance.

With regard to the rejection of claim 22, the applicant submits that the combination of Lavin and Iliff does not render claim 22, as amended, unpatentable, for at least the same reasons given above with regard to the rejection of claim 1. Assuming, for arguments' sake,

that the references were combinable, the recited features of claim 22 would be lacking in the combination suggested by the Office Action. Specifically, neither Lavin nor Iliff, alone or in combination, appear to teach or suggest "a processor module configured to assign at least one entity ownership interest to medical diagnosis and treatment information stored in the database, to track users accessing the information stored in the database, to bill the users for each access of the database" or "to allocate access fees among entities having an ownership interest assigned to the medical diagnosis and treatment information accessed by the users." Therefore, claim 22 is believed to be in condition for allowance.

With respect to the rejection of claim 23, the applicant submits that the combination of Lavin and Iliff does not render claim 23, as amended, unpatentable for at least the same reasons given above with regard to the rejection of claim 1. Even if the references were assumed to be combinable, the recited features of claim 23 would be lacking in the combination suggested by the Office Action. Specifically, neither Lavin nor Iliff, alone or in combination, appear to teach or suggest "controlling access to the database according to ownership interests assigned to information in the database." Accordingly, claim 23 is believed to be in condition for allowance.

Regarding the rejection of claim 24, the applicant submits that the combination of Lavin and Iliff does not render claim 24, as amended, unpatentable for at least the same reasons given above with regard to the rejection of claim 1 and claim 23. Therefore, the applicant submits that claim 24 is in condition for allowance.

Claims 2-4, 6-8, 10-17, and 19-20 were rejected under 35 USC 103(a) as being unpatentable over Lavin in view of Evans (U.S. Pat. No. 6,347,329). Regarding the rejection of claim 2, the Office Action states that Lavin does not explicitly disclose "populating said database with respective progress notes resulting from further encounters between the respective patient and any respective physician so as to create a historical set of progress notes for that respective patient, the set of historical progress notes being interconnectable based on one or more logical operators." The Office Action proposes that Evans suggests this feature, apparently by teaching a database that allows healthcare providers to access and update patient files electronically. However, the cited feature of Evans does not appear suggest a "set of historical progress notes being interconnectable based on one or more logical operators" as recited in claim 2. Therefore, even if combined, the references would not meet claim 2, because neither reference appears to teach or suggest "historical progress notes being interconnectable based on one or more logical operators." Accordingly, it would be necessary to make modifications, not taught in the prior art, in order to combine the references to teach the

features recited in claim 2. Furthermore, neither Lavin nor Evans appear to contain any suggestion that their respective features can be combined as suggested in the Office action. Thus, for the above-cited reasons, applicant respectfully submits that claim 2 is in condition for allowance.

Claim 3 depends from claim 2 and incorporates all the elements of claim 2. As described above, neither Lavin nor Evans, alone or in combination, are valid references. Consequently, the combination taught by claim 2 and dependent claim 3 is not taught in the prior art of record. In addition, the cited feature of Evans does not appear to suggest a method wherein "identified parameters are selected to convey a snapshot of said encounter" as recited in claim 3. As a result, even if combined, the references would not meet claim 3, because neither reference appears to teach or suggest "identified parameters are selected to convey a snapshot of said encounter." Accordingly, neither claim 3 standing alone, nor the combination disclosed in claims 2 in conjunction with claim 3 appear to be taught in the prior art of record. Therefore, dependent claim 3 is believed to be in condition for allowance.

Claim 4 depends from claim 2 and incorporates all the elements of claim 2. As described above, neither Lavin nor Evans, alone or in combination, are valid references. Consequently, the combination taught by claim 2 and dependent claim 4 is not taught in the prior art of record. In addition, the cited feature of Evans does not appear to suggest a method wherein "identified parameters are selected from the group consisting of diagnosis and prescription parameters" as recited in claim 4. As a result, even if combined, the references would not meet claim 4, because neither reference appears to teach or suggest "identified parameters are selected from the group consisting of diagnosis and prescription parameters" Accordingly, neither claim 4 standing alone, nor the combination disclosed in claims 2 in conjunction with claim 4 appear to be taught in the prior art of record. Therefore, dependent claim 3 is believed to be in condition for allowance.

Claim 6 depends from claim 2 and incorporates all the elements of claim 2. As described above, neither Lavin nor Evans, alone or in combination, are valid references. Consequently, the combination taught by claim 2 and dependent claim 6 is not taught in the prior art of record. In addition, the cited feature of Evans does not appear to suggest "one of the logical operator comprises a chronology-indicative operator" as recited in claim 6. As a result, even if combined, the references would not meet claim 6, because neither reference appears to teach or suggest "one of the logical operator comprises a chronology-indicative operator." Accordingly, neither claim 6 standing alone, nor the combination disclosed in claims 2 in

conjunction with claim 6 appear to be taught in the prior art of record. Therefore, dependent claim 6 is believed to be in condition for allowance.

Claim 7 depends from claim 2 and 7 incorporates all the elements of claim 2. As described above, neither Lavin nor Evans, alone or in combination, are valid references. Consequently, the combination taught by claim 2 and dependent claim 7 is not taught in the prior art of record. In addition, the cited feature of Evans does not appear to suggest "one of the logical operator comprises a pathology-indicative operator" as recited in claim 7. As a result, even if combined, the references would not meet claim 7, because neither reference appears to teach or suggest "one of the logical operator comprises a pathology-indicative operator." Accordingly, neither claim 7 standing alone, nor the combination disclosed in claims 2 in conjunction with claim 7 appear to be taught in the prior art of record. Therefore, dependent claim 7 is believed to be in condition for allowance.

Claim 8 depends from claim 2 and incorporates all the elements of claim 2. As described above, neither Lavin nor Evans, alone or in combination, are valid references. Consequently, the combination taught by claim 2 and dependent claim 8 is not taught in the prior art of record. In addition, the cited feature of Evans does not appear to suggest "one of the logical operator comprises a pharmacology-indicative operator" as recited in claim 8. As a result, even if combined, the references would not meet claim 8, because neither reference appears to teach or suggest "one of the logical operator comprises a pharmacology-indicative operator." Accordingly, neither claim 8 standing alone, nor the combination disclosed in claims 2 in conjunction with claim 8 appear to be taught in the prior art of record. Therefore, dependent claim 8 is believed to be in condition for allowance.

Claim 10 depends from claim 2. Accordingly, claim 10 incorporates all the elements of claims 2. As described above, neither Lavin nor Evans, alone or in combination, are valid references. Consequently, the combination taught by claim 2 and dependent claim 8 is not taught in the prior art of record. Therefore, dependent claim 10 is believed to be in condition for allowance.

Claim 11 depends from claim 10, which depends from claim 2. Accordingly, claim 11 incorporates all the elements of claims 2 and 10. As described above, neither Lavin nor Evans, alone or in combination, are valid references. Consequently, the combination taught by claims 2, 10 and 11 is not taught in the prior art of record. Therefore, dependent claim 11 is believed to be in condition for allowance.

Claim 12 has been rejected for the same reasons as described above with regard to the rejection of claim 2, stating that it is readily apparent from Lavin and Evans that the disclosed

systems utilize program code to perform their specified function. For the same reasons provided above and incorporated herein regarding the rejections of claims 1 and 2, the applicant submits that the method encoded in computer program code on computer readable medium is not taught or suggested by Lavin or Evans, either alone or in combination. Accordingly, because the underlying method in the claimed computer readable medium is different from anything disclosed in Lavin or Evans, the applicant submits that the computer readable medium of claim 12 is believed to be in condition for allowance.

Claim 13 depends from claim 12. Accordingly, claim 13 incorporates all the elements of claim 12. For the reasons described above, neither Lavin nor Evans, alone or in combination, are valid references for the computer readable medium claim of claim 12 that embodies the method of claim 2. Consequently, with regard to the Examiner's rejection of claim 13, applicant respectfully submits that the combination taught by claim 12 and dependent claim 13 is not taught in the prior art of record. In addition, claim 13 incorporates the underlying process step of claim 3. For the same reasons given above with respect to the Examiner's rejection of claim 3, the applicant submits that the method encoded in computer program code on computer readable medium is not taught or suggested by Lavin or Evans, either alone or in combination. Therefore, dependent claim 13, incorporating the method of claim 3, is believed to be in condition for allowance.

Claim 14 depends from claim 12 and incorporates all the elements of claim 12. For the reasons described above with respect to the rejection of claim 2, neither Lavin nor Evans, alone or in combination, are valid references for the computer readable medium of claim 12 that embodies the method of claim 2. Consequently, with regard to the Examiner's rejection of claim 14, applicant respectfully submits that the combination taught by claim 12 and dependent claim 14 is not taught in the prior art of record. In addition, claim 14 incorporates the underlying process step of claim 4. For the same reasons given above with respect to the Examiner's rejection of claim 4, the applicant submits that the method encoded in computer program code on computer readable medium is not taught or suggested by Lavin or Evans, either alone or in combination. Therefore, dependent claim 14, incorporating the method of claim 4, is believed to be in condition for allowance.

Claim 15 depends from claim 12 and incorporates all the elements of claim 12. For the reasons described above with respect to the rejection of claim 2, neither Lavin nor Evans, alone or in combination, are valid references for the computer readable medium of claim 12 that embodies the method of claim 2. Consequently, with regard to the Examiner's rejection of claim 15, applicant respectfully submits that the combination taught by claim 12 and dependent claim

15 is not taught in the prior art of record. In addition, claim 15 incorporates the underlying process step of claim 6. For the same reasons given above with respect to the Examiner's rejection of claim 6, the applicant submits that the method encoded in computer program code on computer readable medium is not taught or suggested by Lavin or Evans, either alone or in combination. Therefore, dependent claim 15, incorporating the method of claim 6, is believed to be in condition for allowance.

Claim 16 depends from claim 12 and incorporates all the elements of claim 12. For the reasons described above with respect to the rejection of claim 2, neither Lavin nor Evans, alone or in combination, are valid references for the computer readable medium of claim 12 that embodies the method of claim 2. Consequently, with regard to the Examiner's rejection of claim 16, applicant respectfully submits that the combination taught by claim 12 and dependent claim 16 is not taught in the prior art of record. In addition, claim 16 incorporates the underlying process step of claim 7. For the same reasons given above with respect to the Examiner's rejection of claim 7, the applicant submits that the method encoded in computer program code on computer readable medium is not taught or suggested by Lavin or Evans, either alone or in combination. Therefore, dependent claim 16, incorporating the method of claim 7, is believed to be in condition for allowance.

Claim 17 depends from claim 12 and incorporates all the elements of claim 12. For the reasons described above and incorporated herein with respect to the rejection of claim 2, neither Lavin nor Evans, alone or in combination, are valid references for the computer readable medium of claim 12 that embodies the method of claim 2. Consequently, with regard to the Examiner's rejection of claim 17, applicant respectfully submits that the combination taught by claim 12 and dependent claim 17 is not taught in the prior art of record. In addition, claim 16 incorporates the underlying process step of claim 8. For the same reasons given above with respect to the Examiner's rejection of claim 8, the applicant submits that the method encoded in computer program code on computer readable medium is not taught or suggested by Lavin or Evans, either alone or in combination. Therefore, dependent claim 17, incorporating the method of claim 8, is believed to be in condition for allowance.

Claim 19 depends from claim 12 and incorporates all the elements of claim 12. For the reasons described above with respect to the rejection of claim 2, neither Lavin nor Evans, alone or in combination, are valid references for the computer readable medium of claim 12 that embodies the method of claim 2. Consequently, with regard to the Examiner's rejection of claim 19, applicant respectfully submits that the combination taught by claim 12 and dependent

claim 19 is not taught in the prior art of record. Therefore, dependent claim 19 is believed to be in condition for allowance.

Claim 20 depends from claim 19, which depends from claim 12. Accordingly, claim 20 incorporates all the elements of claims 19 and 12. For the reasons described above and incorporated herein with respect to the rejection of claim 2, neither Lavin nor Evans, alone or in combination, are valid references for the computer readable medium of claim 12 that embodies the method of claim 2. Consequently, with regard to the Examiner's rejection of claim 20, applicant respectfully submits that the combination taught by claim 12, 19, and 20 is not taught in the prior art of record. Therefore, dependent claim 20 is believed to be in condition for allowance.

Claims 9 and 18 were rejected under 35 USC 103(a) as being unpatentable over Lavin in view of Evans and further in view of Walker et al (U.S. Pat. No. 5,949,875). Regarding the rejection of claim 9, the applicant has amended claim 9 to include the operational relationships of "assigning at least one entity ownership interest to respective progress notes stored in the database" and "allocating access fees among entities having an ownership interest assigned to the progress notes accessed by the users." The applicant submits that amended claim 9 is not suggested or taught by Lavin, Evans, and Walker, alone or in combination. Even assuming, for arguments' sake, that the references were combinable, the recited features of claim 9 would be lacking in the combination suggested by the Office Action. Specifically, the combination of Lavin, Evans, and Walker, fails to teach or suggest "assigning at least one entity ownership interest to respective progress notes stored in the database" and "allocating access fees among entities having an ownership interest assigned to the progress notes accessed by the users." Accordingly, it would be necessary to make modifications, not taught in the prior art, in order to combine the references in the manner suggested to "assign ownership interest[s] to respective progress notes" and "allocate access fees" based on the assigned ownership interests as taught in claim 9. Therefore, applicant submits that claim 9 is in now in condition for allowance.

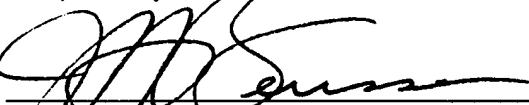
Regarding the rejection of claim 18, the applicant submits that the combination of Lavin, Evans, and Walker, does not render amended claim 18 unpatentable for at least the same reasons given above with regard to the rejection of claim 9. Therefore, claim 18 is believed to be in condition for allowance.

Claim 21 was rejected under 35 USC 103(a) as being unpatentable over Lavin, Iliff, and Walker. The applicant has amended claim 21 to include means for "assigning at least one entity ownership interest to respective progress notes stored in the database" and "allocating access fees among entities having an ownership interest assigned to the progress notes accessed by

the users.” The applicant submits that amended claim 21 is not suggested or taught by Lavin, Evans, and Walker, alone or in combination. Even assuming, for arguments’ sake, that the references were combinable, the recited features of claim 21 would be lacking in the combination suggested by the Office Action. Specifically, the combination of Lavin, Evans, and Walker, fails to teach or suggest “assigning at least one entity ownership interest to respective progress notes stored in the database” and “allocating access fees among entities having an ownership interest assigned to the progress notes accessed by the users.” Consequently, it would be necessary to make modifications, not taught in the prior art, in order to combine the references in the manner suggested to “assign ownership interest[s] to progress notes” and “allocate access fees” based on the assigned ownership interests as taught in claim 21. Therefore, applicant submits that claim 21 is in now in condition for allowance.

For all of the above reasons, applicant submits that the specification and claims are now in proper form, and that each claim defines patentable subject matter over the cited prior art. Therefore, applicant requests reconsideration of the application and early allowance of claims 1-4, and 6 -22 in light of the above remarks.

Respectfully submitted,



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CERTIFICATE OF TRANSMISSION

I HEREBY CERTIFY that this FINAL OFFICE ACTION RESPONSE is being faxed to Vanel Frenel at 703-305-7687 at the Patent and Trademark Office on the 6th day of August, 2003.


Shirley Goff